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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/691,083	10/18/2000	Milton J. Boden JR.	IR1444 Div. (2-2480)	7041
2352	7590	04/29/2004	EXAMINER	
OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403			FOURSON III, GEORGE R	
			ART UNIT	PAPER NUMBER
			2823	

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/691,083	Applicant(s) BODEN ET AL.	
	Examiner George Fourson	Art Unit 2823	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 18 February 2004.

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1,3-7,9 and 11-13 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1,3-7,9 and 11-13 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

 a) ☐ All b) ☐ Some * c) ☐ None of:

 1. ☐ Certified copies of the priority documents have been received.

 2. ☐ Certified copies of the priority documents have been received in Application No. _____.

 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/18/04 has been entered.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1,3-7,9,11-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no description of "a MOS gated device which is resistant to single event radiation failure and having improved total dose radiation resistance...wherein said device is capable of complying with the test procedures for the measurement of single-event effects in semiconductor devices from heavy ion irradiation" generically. There is only seen description of a particular device configuration formed by a particular method including limited thermal cycling of the gate dielectric.

To determine adequacy of written description for original claims MPEP 2163IIA2(a) (redacted) instructs:

- (i) For Each Claim Drawn to a Single Embodiment Or Species:
 - (A) Determine whether the application describes an actual reduction to practice of the claimed invention.
 - (B) If the application does not describe an actual reduction to practice, determine whether the invention is complete as evidenced by a reduction to drawings or structural chemical formulas that are sufficiently detailed to show that applicant was in possession of the claimed invention as a whole.

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(C) If the application does not describe an actual reduction to practice or reduction to drawings or structural chemical formula as discussed above, determine whether the invention has been set forth in terms of distinguishing identifying characteristics as evidenced by other descriptions of the invention that are sufficiently detailed to show that applicant was in possession of the claimed invention.

(1) Determine whether the application as filed describes the complete structure (or acts of a process) of the claimed invention as a whole.

(2) If the application as filed does not disclose the complete structure (or acts of a process) of the claimed invention as a whole, determine whether the specification discloses other relevant identifying characteristics sufficient to describe the claimed invention in such full, clear, concise, and exact terms that a skilled artisan would recognize applicant was in possession of the claimed invention. Any claim to a species that does not meet the test described under at least one of (a), (b), or (c) must be rejected as lacking adequate written description under 35 U.S.C. 112, para. 1.

ii) For each claim drawn to a genus:

The written description requirement for a claimed genus may be satisfied through sufficient description of a representative number of species by actual reduction to practice (see i)(A), above), reduction to drawings (see i)(B), above), or by disclosure of relevant, identifying characteristics, i.e., structure or other physical and/or chemical properties, by functional characteristics coupled with a known or disclosed correlation between function and structure, or by a combination of such identifying characteristics, sufficient to show the applicant was in possession of the claimed genus (see i)(C), above).

Regarding the generic limitations "wherein said device is capable of complying with the test procedures for the measurement of single-event effects in semiconductor devices from heavy ion irradiation", there is insufficient original description of a representative number of species by actual reduction to practice, reduction to drawings, or by disclosure of relevant, identifying characteristics, i.e., structure or other physical and/or chemical properties, by functional characteristics coupled with a known or disclosed correlation between function and structure, or by a combination of such identifying characteristics, sufficient to show the applicant was in possession of the claimed genus.

Claims 1,3-7,9 and 11-13 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear what is recited through use of "wherein said device is capable of complying with the test procedures for the measurement of single-event effects in semiconductor devices from heavy ion irradiation". It appears that a device can be characterized as failing a test and still "comply" with the test procedures, i.e. a failure is a valid test result. Further, it does not appear that the "test procedures" are well

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defined with respect to specific methodology employed, e.g. doses of ions, identity of ions and energy of ions employed.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1,3-7,9 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Kalnitsky and Wolf, Vol.2.

Williams, Kalnitsky and Wolf are applied as stated in the office action mailed 8/18/03 and as follows.

Williams discloses that the gate oxide 50 is grown typically in a dry thermal oxidation to a thickness of 100-1200 angstroms (col.4, lines 38-40).

Wolf, pp.207-210, newly cited, discloses dry oxidation at 800-1100°C (p.208, 210) to produce gate oxides.

It would have been within the scope of one of ordinary skill in the art to employ the conditions of Wolf, Vol.2, to enable the disclosed dry oxidation step of Williams to be performed. In that event it is expected that the resulting device would exhibit the recited property with respect to the radiation hardness because the conditions would then be as disclosed to be so effective on instant page 14, especially after the radiation hardening step of Kalnitsky.


Applicant's arguments are moot in view of the new grounds of rejection stated above.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (571) 272-2800. See MPEP 203.08.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner George Fourson whose telephone number is (571)272-1860. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri, can be reached on (571)272-1855. The fax number for this group is (571)273-0224 and the customer service number for group 2800 is 571-272-2815. Updates can be found at <http://www.uspto.gov/web/info/2800.htm>.


George Fourson
Primary Examiner
Art Unit 2823

GFourson
April 27, 2004